IN THE COURT OF APPEALS
SECOND DISTRICT
WASHINGTON STATE

Court of Appeals No. 49335-7-II

Maolei Zhu and Yongjie Huang

Defendants-Appellants

v.

Sharon Laska, Joseph Walsh, Peter and
Jenifer Lux, Donald and Susan Sorensen,

Plaintiffs-Respondents,

APPELLANTS'RESPONSE TO RESPONDENTS'BRIEF
(Response to respondents' failure to respond)

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The Purpose of Respondents' Brief

Instead of responding to the appellants directly, in order to confuse and mislead the Court of Appeals, the respondents recklessly manipulated and falsified evidence, and knowingly made false statements. The details of the respondents' perjury offense are listed in this Appellants' Response to Respondents' Brief. One of the examples of the respondents' perjury offense in the Court of Appeals is their deliberate creation of the "garden shed/sandbox" concept (Respondents' Brief, Page 6; and page 9, line 16), interpreting out of context from the appellant's original testimony: "*building code law enforcement officer who actually clearly agreed that my structure actually two part; one is the shed, the other is the (inaudible) attached to the shed is the covered sandbox.*" (RP 13; C.P. 102)

Through confusing the issue, the respondents are trying to avoid the specific, fundamental question in this case: **What is the area of the appellants' initial building?** The respondents have never provided any measurement or any authorized document to "prove"[1] their hypothesis that the appellants' initial building was less than 900 square feet.

In Respondents' Brief, the respondents intentionally omit the trial court's most important finding in their "substantial evidence": "*The fundamental flaw in the defendant's argument is that they equate*

[1]To "prove" a hypothesis, the hypothesis must be testable against both supportive and refuting evidences. Here the respondents came to the trial court with "sufficient funds" (Ex 24) and a whole bunch of pictures irrelevant with building area for "fact-finding hearings" (RP124), but only found out the official building area is about 1000 square feet based on building code, and there are different standards to determine the area. They achieved their goal to harm the appellants by falsifying, manipulating and omitting evidence, and through abuse of discretion.

"building" in the restrictions with the "building" under the Uniform Building Code (hereinafter "UBC"). Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building." Consequently, it is constructed in its common and ordinary manner. The court recalls asking if the area was simply determined by the formula "length times width" which was responded to affirmatively." **(C.P. 127).**

The respondents have not yet responded to the errors pointed out by the appellants – the only reason that makes the appellants and respondents come to the Court of Appeals.

. The respondents claim they treat the appellants' arguments as "an evidentiary argument" (Respondents' Brief, page 11) but refused to present any counter evidence to challenge the appellants' arguments, or even talk about whether or not the evidence in the appellants' arguments was true or false.

The respondents refused to talk about the whole initial building that is under the regulation of covenant and alleged by the respondents, and insisted on isolating the shed part from the whole building regardless of fact and law, the building code.

The respondents started their fraud lawsuit to restrain the appellants knowing that the appellants were actively building their 2700 square feet

house. "*Specifically, the photograph of a portable toilet attached as Exhibit A to the Supplemental Declaration of Ms. Laska cannot be a photo from January 8, 2016, because it depicts a portable toilet that was only brought in by Clallam County Habitat for Humanity for volunteers while assisting Defendants with deconstruction of the storage shed in March 2015. Exhibit B of the Supplemental Declaration of Ms. Laska is not additional construction, as she describes; in fact it is the beginning of a fence for a modest vegetable garden. Exhibit C of the Supplemental Declaration of Ms. Laska is not an area excavated for a new building; it is the beginning of a 3,000 square foot tennis court.*" (C.P. 72, 43-48 with county officers' testimonies)

In defiance of laws, while clearly there was no merit at all, the defendants filed a motion on merits to try to block the truth, and continued to try to destroy the appellants' property. The respondents' motion had been denied by the Court of Appeals.

The following picture is the current condition on the appellants' property. The appellants' 2700 square feet house on the background of the white van has been on the property since November 2016. The RV on the right of the picture is actually on where the initial building used to be. The appellants and their young child are currently living on the RV. The water pump house the respondents are trying to destroy is the small building

with one window and black roof between the RV and the two-story house. The left edge of the picture shows the posts used for fencing the garden which had been falsely claimed in the trial court by the respondents as a site for another building less than 900 square feet, leading to the temporary restraining order on April 15, 2016.

The appellants and their child and animals rely on the water coming from the pump house. This is the life the respondents are conspiring to destroy.

The trial court order (Clallam County case # 16-2-00260-1) is illegal because of its fundamental fraud and violation of Federal rules of civil procedures. The case is under investigation by Clallam County Sherriff Department (Case #2016-27254). The appellants have also filed a lawsuit against the respondents (including their attorney Mr. Riffle) for violation of **RCW 9A.72.020, Perjury in the first degree;** VIOLATION OF RCW 9A.72.080 , Statement of what one does not know to be true;

VIOLATION OF RCW 9A.72.150, Tampering with physical evidence; and violation of **U.S. Code Title 18, Part I, Chapter 13, 241 – Conspiracy against rights** (Clallam County 16-2-00969-0, COMPLAINT FOR PRELIMINARY INJUNCTION; PERMANENT INJUNCTION; CIVIL PENALTIES; AND ANCILLARY RELIEF).

A Review of Respondents' Logical Fallacies

The respondents and the trial court have committed the following logical fallacies in their arguments, resulting in invalid arguments:

1. Fallacy of quoting/interpreting out of context

1) From the context of the appellant's testimony on April 15, 2016, it is clear that there were two parts of a structure that were attached to each other (RP 13). On June 15, 2016, the appellant testified that the shed was built on the extension of the footing of the sandbox (RP 75). All these above, however, were falsified into an "aggregation theory" (Respondents' Brief, page 15).

2) From the context of the appellant's testimony on April 15, 2016, it is clear that the appellant was talking about only one shed. The garden shed and the shed mentioned in the statement refer to the same thing. However, the respondents created a concept of garden shed/sandbox, and maliciously claimed that the appellant tried to add the garden shed area to

the storage shed area (Respondents' Brief, Page 6; and page 9, line 16; Respondents' Brief, page 16), comparable to the respondents' claim on June 15, 2016 that the appellant tried to add the area of the shed to the area of the pump house (RP 118).

3) From the context of the appellant's testimony on June 15, 2016, the appellant was using different standards to determine building area, consistent with the court's ruling: *Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building."* (CP 127) On April 15, 2016, the appellants' statement related to the April 13, 2016 email with the county was consistent with government authority and building code standard. The respondents alleged that the appellant "*made no attempt to claim that the sandbox contributed to the storage shed's square footage. Thus, Mr. Zhu's testimony was inconsistent.*" (line 4-5, page 17 in Respondents' Brief). In fact, the conclusion should be the opposite: the appellant was consistent in his testimony regarding the sandbox area. The sandbox does not contribute to the shed's square footage. Instead, it contributes to the area of the whole initial building. The sandbox and the shed are two integrated parts of a building.

2. Fallacy of disguised displacement of concept

The latest example is in respondents' current Respondents' Brief by replacing the appellants' sandbox/tent area with their newly invented "garden shed/sandbox" area (Respondents' Brief, Page 6; and page 9, line 16). Their purpose is to confuse the issue and the Court of Appeals.

The covenant regulates the initial building. The respondents' disguise in their fraud lawsuit is about whether or not the appellants had built an initial building that was less than 900 square feet. In Respondents' Brief, the respondents keep talking about the storage shed and try to give the Court of Appeals an impression that the shed part is the whole initial building. The sandbox was initially built before the shed part. The respondents are trying to avoid the "**initial building**" concept in the covenant.

The respondents' fallacy is to avoid **the real topic of argument: the shed is only part of the building, not even the initial part of the building.**

3. Fallacy of incomplete evidence

The appellants are consistent in testifying the structure of the initial building: April 15, 2016, the appellant testified with government's agreement that the structure had two parts: the sandbox and the shed; on June 15, 2016, the appellant testified that the sandbox area was initially building while the shed part was built on the extension of the sandbox's

foundation. The respondents refuse to consider the structure of the appellants' initial building and isolate the shed part from the building in their argument.

In Respondents' Brief, the respondents list 3 "substantial evidence" to try to "prove" that the findings of fact in the trial court support their hypothesis that the appellants' initial building was less than 900 square feet. However, they intentionally omitted the trial court's most important finding (C.P. 127): **"***The court recalls asking if the area was simply determined by the formula "length times width" which was responded to affirmatively.***"** While "length times width" equaled 1160 square feet (RP 109), the trial court ordered 1160 square feet less than 900 square feet. **The respondents have chosen not to respond to any argument on the trial court's ultimate excuse to restrain the appellants and to damage the appellants' property.**

The respondents intentionally waited until the appellants' initial building had been taken down before they filed their fraud lawsuit. The respondents intentionally committed the fallacy of incomplete evidence.

When the appellant was making his testimony on RP 13, the April 13, 2016 email communication with Officer McFall (CP 102) had been handed in to the trial court judge. "*here I have a conversation with the -- (inaudible) conversation from the County, from the law enforcement*

officer -- code -- building code law enforcement officer who actually clearly agreed that my structure actually two part; one is the shed, the other is the (inaudible) attached to the shed is the covered sandbox." This email message had been filed in the court on April 15, 2016, but was completely ignored. Now in Respondents' Brief, the respondents intentionally ignored the appellants' argument on page 6-7 in Appellants' Brief: "*The April 13, 2016 email communication with Officer Barbara McFall supporting the appellant's testimony had been handed in to the Judge and had been filed in the court (C.P. 102). But this evidence had never been discussed or questioned in the court.*" The respondents had chosen not to respond. Instead, they try to take advantage of the appellants' English difficulty to confuse the Court of Appeals.

This email conversation (C.P. 102) conveys three messages: (1) the alleged building is about 1000 square feet, thus is in no violation of covenant; (2) the building had been taken down in March 2016 in contrary to the "*ongoing*" less than 900 square feet construction activity as claimed by Mr. Riffle and the plaintiffs (R.P. 7-8; C.P. 100, 116), thus the restraining order cannot be justified especially knowing that the 2700 square feet house was already in the building process; (3) the fact that the plaintiffs (Laska and Walsh) have been harassing the appellants is well known and documented in the County.

During the period of motion for reconsideration, the appellants pointed out that the sandbox and the shed share the same foundation and one solid wall (C.P. 174). On July 7, 2016, the government provided the official building area 970 square feet based on building code for building area definition (C.P. 51).

The respondents claim (page 22, Respondents' Brief) that the temporary restraining order "*is not appealable as a matter of right*" despite of the violation of the appellants' legal rights. But the court and the respondents had falsified the appellants' testimony as an "evidence" to issue not only the temporary restraining order on April 15, 2016 but also the permanent restraining order on June 15, 2016. Now, in Court of Appeals, the respondents are still trying to use the appellant's testimony on RP 13 as a disguise of their "*aggregation theory*".

4. Fallacy of circular reasoning

The respondents are basically making the following statement throughout their fraud lawsuit: *The appellants' violation of covenant should be punished because the appellants had violated the covenant.*

The respondents claim that, their first attorney already notified the appellants of their violation of covenant as early as in June 2015, but the appellants continued to build the initial building. Thus the respondents

came to the conclusion that the appellants knowingly violated the covenant.

The respondents claim that their second attorney, Mr. Riffle, warned the appellants of the violation of covenant in December 2015. Riffle falsely claimed the appellants continued to build the initial building with "the attempt to put a second floor on" in January 2016 (RP 7). Thus trial court came to the conclusion that the appellants were actively violating the covenant, and restrain the plaintiffs using discretion power given by Declaratory Judgment Act. However, on June 15, 2016, knowing that the defendants had committed criminal offenses (CP 100, 116; *RP 64*) to meet the condition for the application of Declaratory Judgment Act: "active", "ongoing" violation, the trial court still exercises his discretion power to destroy the appellants' property.

For this fallacy, the respondents must first prove whether the appellants violated the covenant. They could have done that in 2015 without the need to falsify evidence on April 15, 2016 and continue to falsify the appellant's testimony throughout their fraud lawsuit.

5. Fallacy of changing the subject within one argument.

In Line 17-19 on page 21 in Respondents' Brief, the respondents state, "*Unless and until Appellants construct a building that is greater than 900 square feet in area, any building that is constructed that is less than 900*

square feet violates the Restrictions." Then the respondents hastily jumped into their conclusion: "*Thus, the trial court ..., and its order regarding a certificate of occupancy was an equitable-fashioned remedy within its discretion.*"

The respondents' fallacy lies in the fact they have not established, and did not even attempt to prove there is a connection between the violation of Restrictions (covenant) and a certificate of occupancy. The covenant and the certificate of occupancy are two different subjects. There is no court record on such certificate.

6. Fallacy of argument from ignorance and non-testable hypothesis

The respondents were not sure about the area of the appellants' initial building, but hired two different attorneys to allege the appellants in 2015 that the appellants' initial building was less than 900 square feet. With their "*unfolded suspicion*" (C.P. 143), the respondents went to a "*fact-finding hearing*" (RP 124). The respondents' "*substantial evidence*" includes testimony of Laska which is either a lie or a hypothesis, the appellant's testimony which contradicts the respondents' allegation, and Officer McFall's measurement of the ground level of the shed part of the initial building. The respondents' hypothesis that the appellants' initial building was less than 900 square feet is non-testable in light of law

(building code) and fact (the sandbox is the initial part of the initial building).

7. Fallacy of dogmatism, the unwillingness to even consider the opponent's argument.

In Respondents' Brief, the respondents ignored the appellants' arguments on the errors found in the trial court – the only reason that makes the two parties together. The respondents claim they treat the appellants' arguments as "an evidentiary argument" (Respondents' Brief, page 11) but refused to present any counter evidence to challenge the appellants' arguments, or even talk about whether or not the evidence in the appellants' arguments was true or false.

The respondents refused to talk about the whole initial building, and insisted on isolating the shed part from the whole building regardless of fact and law, the building code.

8. Fallacy of weasel words

In the Respondents' Brief, the respondents have created concepts and made statements that are intentionally ambiguous or misleading. One of the examples is "*garden shed/sandbox*" (Respondents' Brief, Page 6; and page 9, line 16).

In Respondents' Brief, page 15, line 13, the respondents refer to RP 75 as evidence for the "*aggregation theory*". Review RP 75, however, the

message being delivered is: **the foundation of the tent area got extended to build a shed for storage purpose.** What make it so difficult for the respondents to see this simple message? The respondents are intentionally making more difficult for the judges in the Court of Appeals to understand the whole situation of the case.

On page 9, Respondents' Brief, the respondents selectively cited truncated sentences from the appellant's testimony (RP 78) to take advantage of the appellant's language difficulty. But the true purpose is to confuse the Court of Appeals.

Respondents' Fraudulent Statement of the Case

On April 15, 2016, Riffle had already presented Laska's "supplemental declaration" (CP 116) in the court that he knew was false. Here, in face of the Court of Appeals, Riffle once again knowingly presented fraudulent statements:

1) The appellants never invited Laska et al to the appellants' property (Respondents' Brief, Page 4), let alone invited Laska et al to "view" the construction (RP 95).

2) Manipulation of time: The picture taken by county officer McFall on July 2, 2015 (Ex 5) shows the existence of the second floor of the shed. On page 4, Respondents' Brief, however, the respondents falsely claimed

"in August 2015, appellants began constructing a second story on the storage shed". August 2015 is the time when the respondents found Riffle after they fired their first attorney (RP 46; Declaration of Sharon Laska, Motion for Temporary Restraining Order).

3) The purpose of the respondents' attorneys' letters to the appellants is incorrect. Riffle's letter in December 2015 (Ex 24) threatened that no matter whether the appellants took down the building or apply for a permit for the building, the respondents would still file the lawsuit against the appellants with "*sufficient funds*". The statement that "the appellants failed to respond" to their attorneys' letter is incorrect (Appellants' Brief, page 13-14). Electronic record can be tracked although Riffle stated in the court that he did not "recall" (RP 16).

4) There was no storage shed building at all at the end of March 2016 before the respondents filed their fraud lawsuit against the appellants (Respondents' Brief, Page 5). Habitat for Humanity took down the whole building including the metal frame of the sandbox, roof, all walls except a half wall that was built to code. The building area was zero according to building code standard (RP 64). It took two days to complete the deconstruction process. The Exhibit A in Laska's Supplemental Declaration shows the status after the first day's deconstruction while

Riffle falsely claimed in the court that the appellants was in "the attempt to put a second floor on it" in January 2016 (RP 7).

5) Laska et al in fact did not use the pump house as evidence to sue the appellants on April 15, 2016 (Respondents' Brief, Page 5; CP 116). Inconsistent statement on the reason why the respondents filed the fraud lawsuit against the appellants at the end of March 2016 (Respondents' Brief, Page 5). The respondents filed their fraud lawsuit not because of the "*single story storage shed and pump house*" (Respondents' Brief, Page 5), but because of the presence of the appellants' garden and the appellants' construction activity on the tennis court – the only "active", "ongoing" "violation of Restriction" (CP 99, 116). The respondents had explicitly threatened to sue the appellants regardless whether the initial building stayed or come down (Riffle's December 2015 letter).

6) Continues to falsify the appellant's testimony on April 15, 2016 by stating "Mr. Zhu argued that the trial court should not issue a TRO because the structures on his property totaled more than 900 square feet in area". The appellant's testimony (RP 13) refers to "structure", not "structures". The email conversation with Officer McFall (CP 102) was handed in to the court at the same time when this testimony statement was made.

7) Continues to falsify the appellant's testimony on April 15, 2016 by making a subtle change of the verbatim from "*A garden shed actually is attached with a sandbox with cover*" (Verbatim Page 13) to "*A garden shed actually is attached with a sandbox* ***cover***" (Respondents' Brief, page 6, line 1). The appellant has difficulty in oral English and said "storages" while he meant "stories". From the context, it is clear that the appellant was talking about only one shed that was two-story.

8) Purposely created a concept "garden shed/sandbox" to try to confuse the judges in the Court of Appeals (Respondents' Brief, Page 6; and page 9, line 16).

9) Make ambiguous statement "measurements of counsel" for evidence for the area for the initial building (Respondents' Brief, Page 7, line 7). Riffle did not measure the dimension of the ground level of the initial building. Riffle did not have any interest in doing the measurement when he inspected the appellants' property for any possible violation.

10) Manipulates the appellant's testimony on June 15, 2016 (Respondents' Brief, Page 9, line 4-10). The authentic expression can be found on page 78 in the verbatim, which is a much more understandable expression: the areas under roof. The respondents take advantage of the appellants' language difficulty and intentionally make selective quotations to distort

the appellant's testimony and to confuse the judges in the Court of Appeals.

11) The appellant did not "*contend that the square footage of the storage shed should be calculated not only by the dimensions of the building itself, but by the dimensions of an extending concrete slab*" as the respondents claimed (Respondent's Brief, page 9). The area 1160 square feet calculated by Riffle (RP 109) was the area of the concrete slab that the respondents were trying to destroy. On June 15, 2016, the appellant talked about different standards to determine building area: "*any area under the roof should be taking into account*" (RP 82), or "any area I artificially create and I can utilize." (RP 82)

Evading the Issues by Making "Counterstatement"

The appellants had presented 2 issues for review:

1) What is the area of the initial building on the appellants' property?

2) What is the legal ground to order damaging and destroying the appellants' property? Is there any court record to support the order to mandate the appellants to produce a certificate of residency to the plaintiffs?

The respondents presented 3 "counterstatements" of the issues:

1) "Substantial" "evidence" supports the trial court's ruling that the

appellants violated the covenant.

2) The appellants knowingly built the initial building less than 900 square feet. The trial court thus orders the appellants to produce a certificate of occupancy, or face the demolishment of the secondary building, the water pump house on January 1, 2017.

3) The respondents and their attorney, and the trial court had no misconduct or violation of law.

Here the respondents are trying to avoid being specific. The respondents are trying to avoid any direct argument on any specific evidence. One of the examples is: the respondents avoid talk about whether there is any legal ground for the trial court to order "no tennis court" (RP 157; Appellants' Brief, page 25)

In order to make "counterstatement" 1) and 2), the respondents must first answer the fundamental question: **what is the area of the appellants' initial building?!** The truth is: the appellants can only violate the covenant if the initial building was less than 900 square feet. By law (according to building code), the initial building on the appellants' property consisted of the tent/sandbox part and the shed part, and was 970 square feet. This building area is verifiable on site and by the government's authority.

A "certificate of occupancy" came from nowhere in the trial court's

record. Instead of providing any argument, clue or hint in the covenant or any "established" law that there is a connection between the covenant and the "certificate of occupancy", the respondents are trying to make the issue ambiguous by depicting the appellant as an individual knowingly violating the covenant. The respondents had skipped reading the appellants' bolded statement in the Appellants' Brief: **Mr. Riffle should not question the appellant's credibility against the evidence (R.P. 131). What he could question is, in fact, the standard that should be followed for building area determination.** This is why we need a legal system. The applicable law, building code, provides the standard. If building code is not followed, the initial building could be less than 400 square feet (CP 83), or more than 1160 square feet (RP 82, 109) according to "any area that is artificially created with building materials". The government's official area for the alleged building 970 square feet based on building code has resolved the dispute between the plaintiffs and the appellants.

The appellants do not propose or claim any misconduct or felony committed by the respondents without pointing out to a specific evidence. The respondents evidenced themselves in their fraud lawsuit to try to deprive the appellants' legal rights. The respondents' fraud had been proved by facts and the government officials' testimonies. For "counterstatement" 3), the respondents have not been able to answer any

of the fundamental questions raised by the appellants in Assignment of Errors in Appellants' Brief. Just list two of the questions: Is there violation of Federal Rules of Civil Procedure, Rule 56 (c)? Did Riffle knowingly make false statements in the court (RP 7-8)?

INCOMPLETE STANDARD OF REVIEW

The "substantial" standard proposed by the respondents is associated with not only "rational" and "facts" but also "legal procedures" and "laws".

The trial court's judgments drafted by Riffle from hearings on April 15 and June 15, 2016 were not actual findings of fact but the contrary to fact. The trial court's judgment of the initial building being less than 900 square feet by singling out the shed part from the whole building is irrational, and in violation of law, the building code.

"Substantial evidence" should not exclude any dispute. The "findings of fact" include all findings and evidences no matter the respondents like them or not. The trial court had come to a conclusion in violation of Federal Rules of Civil Procedure, Rule 56 (c) Summary Judgment Procedures.

The respondents also "forgot" to mention the law used by the trial court: the Declaratory Judgment Act. The respondent "forgot" to mention

whether the Declaratory Judgment Act had been used appropriately by the trial court.

Introduction: Respondents' Failure to Respond

The only reason that makes the appellants appeal the court judgment and decision is because there are errors in the trial court procedure. The respondents have failed to respond to the following arguments related to errors found in the trial court:

1. Appellants' Brief, Page 1: *It had been **proved by the county building officers** and plaintiff Sharon Laska's own testimony that the plaintiffs started the lawsuits and alleged the appellants' violation of community covenant with **fraudulent claims** (C.P. 116; C.P. 98 filed on April 19; C.P. 87; C.P. 72, 43-48 with county officers' testimonies).* **The respondents failed to provide counter evidence or explanation** on how the appellants were wrong in making the above statement.

2. Appellants' Brief, Page 2: The trial court's judgment of the alleged building being less than 900 square feet was contrary to facts and evidences, and is against the law, building code. In Respondents' Brief, t**he respondents refuse to talk about the**

structure of the initial building, and refuse to talk about building code.

3. Appellants' Brief, Page 2: The order to restrain the appellants and to destroy their legal property was given based on matter outside the court record, and cannot be justified based on any law or contract. **The respondents failed to respond in that they were not able to associate a "certificate of occupancy" with "an initial building not less than 900 square feet" in the covenant, or with any Washington State's "settled law". The respondents failed to respond why the appellants' tennis court had to be destroyed.**

4. Appellants' Brief, Page 2: **Violation of Federal Rules of Civil Procedure, Rule 56 (c) Summary Judgment Procedures**

The Court entered a judgment that completely excludes any evidence or testimony from the appellant (C.P. 52). **The respondents completely ignore this fundamental legal argument,** and refuse to provide any counter evidence that the trial court did not violate the civil procedure.

Take a look at the temporary restraining order, where is the appellants' testimony and evidence of a building less than 900 square feet? There was

none. Where is the evidence of the initial building being less than 900 square feet? There was none.

Take a look at the permanent restraining order, where is the appellants' testimony on the construction of the initial building? There was none. What is the standard used to judge the initial building was less than 900 square feet? There was none. Where is the appellants' dispute on how the area of a building can be calculated? There was none.

If the appellants had not appeal this fraud lawsuit, is there any way for anybody outside the trial court know about the presence of a dispute, the cry of the oppressed? No. **This is an explicit violation of Federal Rules of Civil Procedure, Rule 56 (c) Summary Judgment Procedures.**

5. Appellants' Brief, Page 3: *Inappropriate application of Declaratory Judgment Act.* The respondents failed to respond although they have **intentionally created the condition for the application of Declaratory Judgment Act** using falsified evidence: "active", "ongoing" violations.

6. Appellants' Brief, Page 6: **Errors in admitting evidences (Violation of Federal Rules of Evidence 2015)**

1) A key evidence provided by the appellant had been ignored and omitted: the building has two integrated parts: the sandbox/tent and the shed. **The respondents failed to respond in that they**

intentionally created a concept "garden shed/sandbox" to try to confuse the Court of Appeals. The respondents' intention and behavior is consistent with how they falsified the appellants' testimony in the trial court (RP 13).

2) *A misbelief of the appellant's testimony on June 15, 2016 was inappropriately used as an evidence to go against the appellants by labeling the appellant having two different "theories".* **The respondents failed to respond in that they failed to point out if the appellants was wrong in presenting** the appellant's own understanding of "*any area I artificially create and I can utilize*" (R.P. 82) by taking into account of all areas under roof in the June 15 court hearing (R.P. 78-79, 81-82, 118-119); and if the appellants had ever made inconsistent testimony in the structure of the initial building, and the **tent/sandbox area.**

The respondents failed to respond to the appellants' following assertion: Mr. Riffle should not question the appellant's credibility against the evidence (R.P. 131). What he could question is, in fact, the standard that should be followed for building area determination.

In fact, the appellant's standard of all areas under roof or any area artificially created is consistent with the trial court's ruling:

"*Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building"* (CP 127)

3) Appellants' Brief. Page 11: Bias in admitting evidences. **Prejudicial and frivolous evidences** from the plaintiffs were admitted while the appellants' evidences were ignored. **None of the respondents' exhibit pictures showed any proof of the building area. The respondents failed to point out which of their Exhibit pictures indicates the area of the appellants' initial building.**

7. Orders were issued without evidence; Statements were made against facts. Without evidence, the Court can "*just hit the brakes*" even there is no evidence, and then "*hit the reset button*" if the plaintiffs were wrong, regardless of the harm they put on the appellants (RP 17). Riffle obtain a restraining order from the court by simply claiming his clients as "*reasonable people*" (R.P. 16). **The respondents failed to explain what "brakes" they are trying to hit, and what made Riffle believe other respondents are "reasonable".**

8. Abuse of Discretion in violation of Washington State Court Rules: Code of Judicial Conduct, Rule 2.3 Bias, Prejudice, and Harassment; Rule 2.4 External Influences on Judicial Conduct

1) Followed the law only when it is useful; the law was purposely utilized or neglected at the Judge's personal will. **The respondents failed to respond in that they intentionally omitted the most important judgment in the trial court** (C.P. 127): **"***The fundamental flaw in the defendant's argument is that they equate "building" in the restrictions with the "building" under the Uniform Building Code (hereinafter "UBC").***"**

The trial court ordered a building on the same property not subject to the building code. However, the fact is: can anyone name a single building in the United States that is not subject to building code regulation? The answer is: No. Even a building without a permit does not mean that it can escape the regulation of building code. The second question is: does the covenant tells us the buildings in the community are not subject to building code regulation? The answer is: No. Another question is: does the Judge not know about building code? The Judge himself already provided the answer: No. Suppose the appellants chose to apply for a building permit for the alleged building instead of taking it down, the County would have issued a building permit for 970 square feet. Can anybody or any court change this fact? The answer is: No. In conclusion, the trial court judge is creating his own law to

govern the alleged building to make sure it was less than 900 square feet.

This is the foundation on which the trial court's decision to restrain the appellants and to destroy the appellants' property is based, the respondents have provided no argument at all.

2) *De Novo interpretation of the "initial building" that is subject to covenant restriction is needed.* The respondents failed to respond in that they **failed to point out their "*point*" in the covenant but simply claiming "*everything should be destroyed*"** on the appellants' property.

3) The order was issued based on matter outside the court record.

The respondents failed to provide answer to how the concept of certificate of occupancy came into the trial court.

Erroneous and Invalid Arguments with Manipulation and Falsification of Evidence

The respondents had abandoned the following "evidences" used in the trial court:

1) C.P. 146, a more direct evidence. How can the respondent choose not to use this evidence in the Court of Appeals? This is because it was Officer Warren who represents the government to officially declare the whole

initial building of the appellants was 970 square feet based on building code. The respondents have been defending themselves by ignoring the government's official letter on July 7, 2016. Keep in mind that it was Officer Warren who found the mistake of Officer McFall in July 2015 (CP 83) and came to the appellants' property in October 2015 to issue the "Stop Work" notice due to violation of building code. When the building code was not followed, Officer McFall considered the building was less than 400 square feet (CP 83). The respondents did not accept it and continued to put pressure on the County until McFall's director Officer Warren intervened.

2) The appellants "*did nothing to combat the allegation that this was less than 900 square feet, other than tear the building down.*" (R.P. 129) The respondents abandoned this argument because of their own contradictory arguments. This is an evidence of Riffle's tampering with evidence.

3) The respondents stated the 2015 building code provided by the appellants is "*inadmissible*" and proposed the 2012 building code (C.P. 143); while the Judge rules the building code does not apply to the alleged initial building at all (C.P. 130). The respondents abandon the argument on building code because they know that the appellants' initial building is indeed 970 square feet according to building code. The respondents are

afraid of any discussion of building code, the law for building area determination.

4) Keep in mind that the trial court's most important finding is: "*The fundamental flaw in the defendant's argument is that they equate "building" in the restrictions with the "building" under the Uniform Building Code (hereinafter "UBC"). Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building." Consequently, it is constructed in its common and ordinary manner. The court recalls asking if the area was simply determined by the formula "length times width" which was responded to affirmatively.*"

How can the respondents abandon the trial court's most important finding?!

After giving up the above positions/arguments, the respondents still want to argue based on their "substantial evidence". While doing so, the respondents did not forget to create **the following "substantial evidence":**

Falsifying the appellants' testimony in the Court of Appeals:

In Respondents' Brief, page 16, line 14-16: "*Mr. Zhu contended that the trial court should not issue a TRO because the garden shed/sandbox and storage shed totaled more than 900 square feet in area.*"

The appellants have been using the tent and sandbox area interchangeably. Throughout the trial court hearing, all parties had been talking about the shed that was two-story. The garden shed to "put tools away" is the same thing as the storage shed. It is the shed part of the building.

According to the respondents' "substantial" standard, **can any rational person interpret two parts of a structure into two different buildings?!**

Now in the Court of Appeals, the respondents continue to remain silent on the April 13 email communication with Officer McFall because they understand that even before the court hearing, Officer McFall agreed that **the two-story shed is only part of the building, not even the initial part of the building**.

In light of the fact that **the two-story shed is only part of the building, not even the initial part of the building,** all of the respondents' **circular arguments** fall apart. In the Plaintiffs' Response to Defendants' Motion for Reconsideration (CP 143), the respondents questioned whether the metal frame of a $200 tent can be counted as a building, and questioned the credibility of the picture taken by themselves secretly (not invited, the appellants were unaware) showing a common wall and the concrete foundation of the sandbox/tent area and the shed area. Now in the

Court of Appeals, the respondents give up their previous position and committed the logical fallacy of **circular argument** to avoid getting into the **real topic of argument**.

The appellants do not have the habit of evading any challenging argument. Here the appellants would like to talk a little more of the respondents' "substantial evidence":

Respondents' Brief, page 13: *The record supports the trial court's finding that the storage shed was less than 900 square feet.*

The **testimony of Laska (and accompanying exhibits)** had been proved fraudulent by the testimonies of government officers and the manager of Habitat for Humanity who helped with taking down the appellants' initial building. None of Laska's exhibits show any area of a building.

The **testimony of Mr. Zhu (the appellant)** proposed all areas under roof as the standard to determine the shed part of the building. This standard should be admissible according to the trial court's ruling: "*Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building*". The respondents had never proposed any standard to determine the area of the building. The trial court did rule with one standard on April 15, 2016: "at commencement of construction" (R.P. 18). According to this standard, the sandbox, the initial part of the

building, should be counted together with the shed part of the building, totaling an area of about 1000 square feet (R.P. 13). The trial court did also rule with another standard on June 15, 2016: *THE COURT: Actually the formula might be easier length times width (R.P. 101).* The respondents calculated part of the building area as 1160 square feet according this standard. In light of the trial court's ruling of "*Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building*", the appellant may use his own standard of "*I seen the covenants say that square foot in area. That mean any area I Artificially create and I can utilize.*" (R.P. 82) The 1160 square feet concrete slab could be the ground level of the initial building according this standard. The appellant's testimony in fact supports that even the shed part of the building was over 900 square feet depending on what standard is used to determine the area. **Mr. Riffle and the Court should not question the appellant's credibility against evidence** (R.P. 131, 154). **What could be questioned is, in fact, the standard that should be followed for building area determination.** In the Defendants' Motion for Reconsideration, the appellants (defendants) emphasized the law, building code as the only acceptable standard for the court's judgment. The respondents have avoided any discussion of building code in the Court of Appeals.

Now the respondents have only one "*substantial evidence*" left: **the measurements of Officer McFall** (Respondents' Brief, page 13). Officer McFall's July 1, 2015 letter (CP 83) states that the shed was less than 400 square feet according to her measurements and therefore the appellants did not have to take down the building because of no violation of county code. The respondents did not accept this letter and continued to appeal to the County until building code prevailed (R.P. 55). At the end of October 2015, the appellants had to make a choice to either take down the building or to apply for a building permit (for a 970 square feet building). If Officer McFall continued her mistake in neglecting the building code, Officer McFall may declare that even the shed part of the building was more than 900 square feet. When the respondents cited Officer McFall's mistake as their "*substantial evidence*", the respondents must clarify how a "*rational fair-minded person*" would believe the mistake was not a mistake, and why they did not accept Officer McFall's mistake in 2015 and now they want to rely on it. The respondents should not just cite out of context for what they need, but provide all the related evidence.

Nonetheless, however, this is the only measurement used by the respondents to try to claim (**not prove**) the appellants' initial building was less than 900 square feet in area. Riffle had the opportunity to come to the appellants' property to inspect for any possible violation of covenant. He

could have at least provided the measurements of the ground level of the shed part of the initial building. But Riffle chose not to do so. Instead, he measured the secondary building, the water pump house in great details although the pump house is obviously far less than 900 square feet (less than 1/10) because he knew his job was to take down the water pump house as requested by his fund provider (the respondents).

In conclusion, based on the above facts, no rational fair-minded person would believe the respondents have any "substantial evidence" to claim the appellants' initial building was less than 900 square feet. There is also no "substantial evidence" that even the shed part (storage shed/garden shed) of the initial building was less than 900 square when building code was not followed in the trial court.

Now that the respondents have lost all their three **"substantial"** evidences, the appellants would like to point out a few more errors the respondents intentionally made in their two other **"thinly veiled"** arguments (Respondents' Brief, page 11, respondents' excuse for not responding to Assignment of Errors in Appellants' Brief):

b. *The trial court did not fail to consider the "sandbox/tent" area, and the July 7, 2016 letter is not part of the record. (Respondents' Brief, page 14-15)*

The appellant (Mr. Zhu) first testified about the sandbox/tent area during the TRO hearing on April 15, 2016 instead of during the permanent injunction hearing on June 15, 2016. The trial court did not allow the appellants to make further testimonies (R.P. 19, 20). The appellant's testimony (R.P. 13) had been twisted and falsified into an "aggregation theory" (Respondents' Brief, page 15, line 12) by interpreting "two part" of a "structure" into shed plus garage (R.P. 18) on April 15, 2016, storage shed plus pump house (R.P. 118) on June 15, 2016, and garden shed/sandbox plus storage shed (Respondents' Brief, page 9, 16) now in the Court of Appeals. The trial court and the respondents have been relying on their "aggregation theory" allegedly coming from the appellant's testimony in the TRO hearing on April 15, 2016.

In Respondents' Brief, page 15, line 13, the respondents refer to RP 75 as evidence for the "aggregation theory". Review RP 75, however, the message being shown is: **the foundation of the tent area got extended to build a shed for storage purpose.** What make it so difficult for the respondents to see this simple message? What make them so outrageous to present RP 75 as an evidence for "aggregation theory" to the Court of Appeals?

The respondents are most afraid of the government's official letter on July 7, 2016 to clarify the area of the appellants' initial building as 970

square feet based on building code. The respondents had tried very carefully not to mention it. In the Plaintiffs' Response to Defendants' Motion for Reconsideration, the respondents (plaintiffs) did not even mention this letter at all. The appellants (defendants) were totally fine with it as long as they began to talk about building code. However, the respondents tried to cover the fact by falsely claiming to the court that the 2015 building code proposed by the appellants was not admissible, and they proposed the 2012 building code. In fact, the 2015 and 2012 building codes are identical in defining building area (C.P. 132). The trial court mentioned that the appellants "*made no showing why this information could not have been made available for the June hearing with the exercise of due diligence*". However, the fact is: The appellants' testimony on April 15, 2016 and the April 13 email communication with Officer McFall regarding the integrated sandbox-shed structure are both consistent with the building code standard. In addition, ***standard and law do not have to be discovered earlier or later,*** **the building code is always available for people to follow.** The trial court then ruled the building code is not applicable for the appellants' initial building:

If the respondents and the trial court followed and obeyed the law, the appellants would not have had to turn to the government for support and protection. There would be no July 7, 2016 letter from the government to

clarify the official area of 970 square feet for the initial build, and to protect the water source the appellants live upon.

Similarly, now the trial court's deadline to destroy the appellants' water pump house had passed, the appellants turn to the government's law enforcement agencies for protection. All of the respondents including Riffle are now under investigation. The trial court judge is also under investigation by legal authority. Suppose, one of the respondents will be convicted of perjury in the first degree, he or she may make his/her claim to the Court of Appeals that, "**No! My felony does not count because my conviction is after the June 15, 2016 court decision.** " Is it rational for he/she to say that?

Nonetheless, the appellants had appropriately appealed both the June 15, 2016 court order, as well as the judgment on Defendants' Motion for Reconsideration. The government's July 7, 2016 official letter is part of the court record. Again, the appellants' initial building was 970 square feet. This is official. This is indisputable.

c. *The trial court properly considered Mr. Zhu's statements from the TRO hearing to determine credibility.* (Respondents' Brief, page 16-17)

The appellant made a statement with email evidence to question the respondents' credibility (RP 16): Riffle refused to acknowledge that he

had received the appellant's email on December 8, 2015 notifying that the initial building was going to come down (CP 114-115). Riffle denied any knowledge of this email because he was knowingly using Laska's fraudulent Exhibit A (Laska's Supplemental Declaration) to falsely claim that the appellants were actively building and actively violating the covenant while in fact there had been no building activity for 5 months.

The respondents falsified in front of the Court of Appeals in line 15-16 on page 16 in Respondents' Brief: "*the garden shed/sandbox and storage shed totaled more than 900 square feet in area*". Falsifying the appellant' testimony does not change the fact. The respondents' purpose is to try to confuse the issue so that they can convene the Court of Appeals to let the trial court make the final judgment.

In terms of the appellant's credibility, what did the trial court find? Here is the list:

1) The appellant's testimony on April 15 ,2016 on a structure having two parts, the sandbox and the shed had been falsified multiple times by the respondents and the judge (R.P. 13).

2) The sandbox/tent area is the initial part of the building (R.P. 75).

3) There are different standards to determine the building area, i.e., all areas under roof (RP 81, 82), any area that is artificially created with building materials (R.P. 82).

4) The government building code officers agree that the building had two parts, the sandbox and the shed area (CP 102).

5) The appellant alleged that Riffle was lying in the court by saying he did not received the appellant's email on December 8, 2016. The appellant presented the electronic record showing the email had been sent to Riffle's email address successfully.

6) The appellant stated the respondents were not invited. Instead, they knocked on the door on the appellants' RV. "*The County show me -- show me a letter -- a claim from Walsh and Laska that I pose a high risk to the public. And my son pose a high risk to other school-age children*" (RP 95).

7) The appellant alleged that Riffle was lying to the court once again on June 15, 2016 (RP 118). In the June 15, 2016 hearing, Riffle did not respond directly when the appellant said "*Totally wrong. You are not telling the truth*" because Riffle did say "*You can correct me if I am wrong*". However, now in the Court of Appeals, Riffle became very certain that the appellant was saying a garden shed and a storage shed together totaled an area about 1000 square feet (Respondents' Brief, page 16).

On line 4-5, page 17 in Respondents' Brief, the respondents argued that the appellant "*made no attempt to claim that the sandbox contributed*

to the storage shed's square footage. Thus, Mr. Zhu's testimony was inconsistent."

In fact, the conclusion should be the opposite: the appellant was consistent in his testimony regarding the sandbox area. The sandbox does not contribute to the shed's square footage. Instead, it contributes to the area of the whole initial building. The sandbox and the shed are two integrated parts of a building.

Now it is clear that the respondents do not have any valid argument to support their claim that the appellants' initial building was less than 900 square feet. But this does not prevent the respondents from starting a fraud lawsuit to reach their goal. The respondents' goal is to harm the appellants.

Now take a look at the respondents' argument on page 17 in Respondents' Brief: "*The trial court's decision regarding the pump house and certificate of occupancy is clearly supported by settled law and was an equitably-fashioned remedy within its discretion*".

In the respondents' examples, the buildings violating restrictions were ordered to be torn down to the foundation. These cases are not comparable to the appellants' water pump house unless the respondents can provide any information in Heath case that Uraga violated the roof design restriction in his residential house, and consequently his garage had to be

torn down, and his utility box, green house or dog house had to be torn down as well.

1) There can only be one "initial building" that can be less than 900 square feet. Only an initial building less than 900 square feet is an offending structure. The appellants' water pump house, the secondary building, is an accessory building allowed by the covenant. There is no indication in the covenant that it can become an offending building. In as early as June (with first attorney) or August (with second attorney) in 2015, the respondents could have sued the appellants without the need to falsify evidence in April 2016, and used a "*fact finding hearing*" (RP 124) to order the appellants' initial building to be torn down and prevent the pump house to be built. It was the respondents' failure to sue the appellants in 2015 that led to the construction of the secondary building, the pump house. It was the respondents who allowed the construction of the pump house. How can it become an offending building now? In the April 15, 2016 court hearing, when the respondents falsely claimed the appellants were actively building an initial building less than 900 square feet (Laska's Supplemental Declaration, CP 116), the completed pump house is already there with window and roof. Why didn't the respondents simply just claim the pump house as the initial building and get the court order to tear it down? The pump house is only 1/10 the size of the initial building.

If the respondents were so sure about the area of the appellants' initial building, they should be sure about the area of the pump house without the need to provide any measurements to the court.

2) How can the destruction of the appellants' water pump house become a remedy for the alleged violation of covenant? The remedy can only be a building no less than 900 square according to the covenant. The covenant does not place any requirement on a certificate of occupancy. In November 2016, the appellants already have a 2700 square feet house although the certificate of occupancy is still not available until now. The destruction of the pump house will make the appellants unable to live in their house because of no water access. Of course, the respondents do not care. In fact, this is what they have been looking for. This is the purpose of the respondents' fraud lawsuit against the appellants.

The respondents were unable to justify the certificate of occupancy requirement to protect the appellants' water pump house. In Line 17-19 on page 21 in Respondents' Brief, the respondents state, "*Unless and until Appellants construct a building that is greater than 900 square feet in area, any building that is constructed that is less than 900 square feet violates the Restrictions.*" Indeed, a certificate of occupancy cannot be found anywhere in the covenant. The appellants already have a building of 2700 square feet in November 2016. As neighbors, the respondents see the

building every day. But they still want to destroy the appellants' pump house under the excuse of lack of certificate of occupancy. The respondents hastily jumped into their conclusion: "*Thus, the trial court ..., and its order regarding a certificate of occupancy was an equitable-fashioned remedy within its discretion.*" Now the appellants have the 2700 square feet house without a certificate of occupancy, and the appellants may never be able to get the certificate without the pump house. What is the remedy if there was violation of covenant? Is it the harm that must be forced upon the appellants?!

Now turn to the respondents' statement in line 17-18 on page 20 in Respondents' Brief: "*the trial court's decision to give appellants a short time frame to construct a compliant house is actually generous, not discriminatory*". By code, the appellants' building permit is good for two years and can be extended (CP 51). In addition, it is the building contractor instead of the appellants who can control how soon the building can be finished. Furthermore, the covenant does not require a certificate of occupancy. The trial court's judgment is undoubtedly discriminatory.

The certificate of occupancy only comes from the respondents' desire as expressed in their settlement terms. But Riffle's email for the settlement terms (C.P. 175) was not provided to the Court until after the permanent restraining order had been issued. The requirement of a

certificate of occupancy suggests that the Judge agrees with the respondents that the appellants should not live on their own property without a house. But how did the trial court Judge know about the respondents' desire? Now turn to the respondents' final very brief argument:

"*Appellants' conclusory allegations of fraud, constitutional violations, and misconduct are clearly meritless and do not warrant judicial consideration.*"

The respondents choose not to talk about all the evidences and even the evidence most important to them in the trial court. The respondents stated "*those claims are unsupported by reasoned legal argument*". The appellants agree that the respondents are not convicted until they are prosecuted and trialed. But the evidences are there. The crime had been committed.

Riffle is a very "skilled" attorney. He knew that "*a TRO is not appealable as a matter of right*" and therefore he believed all the fraud and perjury he and other respondents had committed on April 15, 2016 do not matter. Riffle found the hole in the legal system and instructed other respondents not to sue the appellants while the building was still intact, and made falsified claims to meet the requirements for a declaratory judgment. The respondents believed, all they need is the TRO drafted by

the respondents and signed by the judge declaring that the appellants was actively violating the covenant and continued to violate the covenant if the TRO was not issued. Then the statement authorized by the court in TRO will automatically become the "substantial evidence" they need to get the permanent restraining order to deprive the appellants of their legal rights. The truth stands. Until now, the trial court and the respondents have been relying on their falsification of the appellant's testimony (RP 13) in the TRO hearing to harm the appellants. The harm caused by the fraud is evident and significant. The respondents will be brought to justice.

No Premise to Support Respondents' Conclusion

Government authority has clarified that the appellants' initial building is 970 square feet. The respondents have no measurement of the appellants' initial building and have no authorized proof of the building area being less than 900 square feet.

The appellants knew about the covenant and knew the initial building could be more than 900 square feet depending on what standard is used to determine the building area, consistent with the trial court's ruling: *Neither the UBC definition nor any other standard has been incorporated in the covenants to define "building."*

The trial court and the respondents have not been able to justify the requirement of a certificate of occupancy to protect the appellants'

property. There is no court record or covenant requirement for a certificate of occupancy.

The respondents have not been able to respond to the errors found in the trial court. The respondents have not been able to provide any counter evidence for the fraud allegation.

The respondents have not been able to answer whether or not there was violation of federal civil procedure.

Ordering the appellants' initial building being less than 900 square feet is illogical, unlawful, and contrary to fact.

Legal Authority Warrant Judicial Consideration

Misrepresentations and fraud upon court

In violation of Federal rules of civil procedures, the respondents illegally obtained a court order to deprive the appellants of their property rights by falsely claiming the appellants were actively violating the covenant by building multiple "initial buildings" less than 900 square feet. In order to harm the appellants, respondent Riffle knowingly made fraudulent misrepresentation to the court and intentionally made statements that he knew were false (i.e., RP 7, 8).

The trial court Judge Christopher Melly falsified the appellant's testimony in the court to assist attorney Christopher Riffle to prevail in the court (RP 18). Melly allowed Riffle to ask for a restraining order without

evidence and in face of counter evidence (RP 13; CP 102). Judge Melly did not allow the appellants to further testify in the court (RP 19, 20). Riffle obtained the order from Judge Melly by simply claiming that his clients were "pretty reasonable people" (RP 16). Riffle told Judge Melly that they can simply "hit the brake" without evidence and then "hit the reset button" even if they were wrong regardless of the harm they forced upon the victims (RP 17).

Here I'd like to make an analogy:

Scenario A: A police officer can only arrest me without going through the court if I am actively stealing from a cell phone from Walmart. The condition for the officer to use his power is the "active", "ongoing" violation of law.

If a person took a picture of me, a picture of a cell phone in Walmart, then combine the two pictures together and manipulate the picture such that it looks like I was stealing a cell phone from Walmart. The person presents the picture to the officer. The officer trusted the person and arrested me. This is a mistake by the officer.

But if the officer already knows that the picture is actually fake, and still wants to arrest me, this is crime, deprivation of rights under the color of law. The officer is in fact a collaborator of the person who produced the fake picture.

Scenario B: The court can only destroy my property if I am "actively" violating the covenant. This is the discretion given by the Declaratory Judgment Act. The condition of using Declaratory Judgment Act is the "active", "ongoing" violation of covenant.

Attorney Riffle knowingly presented falsified evidence to Judge Melly in the court and falsely claimed that the appellants were "actively" violating the covenant. Ignoring any counter evidence, Judge Melly made a mistake. Falsifying the appellant's testimony to help the opposing part Riffle to prevail, Judge Melly became a collaborator of Riffle.

If Judge Melly did not hear the appellant, and did not see appellant's email conversation with County officer Barbara McFall presented to him at the same time and filed in the court on April 15, 2016, Judge Melly made a mistake when he applied the Declaratory Judgment Act to stop the alleged non-existent "active", "ongoing" "violations".

However, on June 15, 2016, Judge Melly undeniably knew that Riffle and his clients had falsified evidences to meet the requirements of Declaratory Judgment Act: "active", "ongoing" violations. Knowing the Act is not applicable, Judge Melly still applied the Declaratory Judgment Act to destroy the appellants' property. This is the direct evidence that Judge Melly is a collaborator of Riffle and his clients. This is crime, deprivation of rights under the color of law.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Appellants' Response to Respondents' Brief was mailed via USPS (7016 1370 0000 2181 9886) to Appellee's counsel, Christopher J. Riffle, Attorney WSBA #41332, Platt Irwin Law Firm, 403 South Peabody Street, Port Angeles, WA 98362, on the 21th day of January, 2017.

Maolei Zhu

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